

**BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes**

October 2, 2008

A meeting of the Board of Environmental Protection was held on Thursday, October 2, 2008 at the Holiday Inn / Ground Round, Augusta, Maine. Ernest W. Hilton, Chair, called the meeting to order at 09:00 a.m. with the following individuals present:

Board: Elizabeth Ehrenfeld, Don Guimond, Ernest Hilton, Sue Lessard, P. Andrews Nixon, Matt Scott, Lissa Widoff and Nancy Ziegler.

Board member Don Guimond departed at approximately 11:00a.m.

Absent: M. Wing Goodale, Richard Gould

<u>Staff:</u>	Bureau of Land and Water Quality	Dennis Merrill
	Bureau of Land and Water Quality	William Bullard
	Bureau of Land and Water Quality	Linda Kokemuller
	Bureau of Land and Water Quality	Susan Davies

Others: David P. Littell, Commissioner
Mary Sauer, Assistant Attorney General
Cindy Bertocci, BEP Executive Analyst
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 12:00 p.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: Commissioner Littell reported the following:

CO₂ Auction: The sale price for each allowance was \$3.07 per unit which represents a good price considering current economics. The auction was considered a success. The majority of the bidders were from the regulated community; however, individuals from the non-regulated sector did participate (e.g. environmental groups, some investors).

Board member Ernest Hilton commented that he anticipated allowances to be priced differently state by state throughout RGGI area.

Commissioner Littell explained that all the participating states operate through RGGI Inc. There is a single auction for all the allowances available and the price per allowance, as established through the auction, is the same for each of the participating states.

Board member Hilton asked if all 12 million allowances were available at once.

RGGI Inc. made all 12.5 million allowances available in 1,000 unit increments at one time. A lot (1000 units) contained some 34 to 35 Maine allowances.

Board member Hilton reviewed a scenario by which a Maine company needs 200,000 allowances and it bids \$2.18/lot; how does their bid provide them with the needed units?

The auction received a number of bids below the \$3.07/allowance resulting in the top 25% bidders (some of which may have bid \$3.80) purchasing lots at \$3.07 each. The auction design is based on a modified Dutch auction and is similar to the type used by the electrical market. If a regulated entity did not purchase allowances in this round, there will be other auctions prior to the first compliance deadline.

Board member Nancy Ziegler asked for additional detail concerning the other states and how they participate with a larger amount of allowances. Why did only 6 states offer allowances when there are 10 states participating in the region?

Six states participated in this first auction because they had their rules in place prior to the auction date. Maryland was the state with the largest number of allowances to purchase (approximately 5.3 million). By December the remaining 4 states will be able to participate. Allowances are based on the number of regulated power plants in that state and the total amount of CO₂ emissions from those regulated plants. For example, Maryland has a number of coal fired power plants, therefore greater CO₂ emissions than a state such as Maine, and therefore more allowances available for auction.

Energy and Carbon Reduction Trust: Maine's share of the proceeds from the CO₂ allowance auction are deposited to the Energy and Carbon Savings Trust. The Trust recently made \$750,000 of its proceeds available for an energy reduction plan for residential low income.

Mercury Export Ban: This bill passed both houses of Congress. The law bans the export of mercury from recycling and requires the federal government to develop a repository for the mercury, removing it from the environment.

- B. COMMENTS FROM THE BEP CHAIR: NONE**
- C. EXECUTIVE ANALYST COMMENTS: NONE**
- D. BOARD CALENDAR: Reviewed**
- E. DEPARTMENTAL ORDERS/ APPLICATIONS ACCEPTED FOR PROCESSING: Reviewed**
- F. EXECUTIVE SESSION: None**

II CONSENT AGENDA ITEMS

1. DAVID LEHR, Bangor – Administrative Consent Agreement (BLWQ)

Board voted (8-0-0-2) on a motion to approve consent agenda item 1 as presented:

Board members Elizabeth Ehrenfeld, Don Guimond, Ernest Hilton, Sue Lessard, P. Andrews Nixon, Matt Scott, Lissa Widoff and Nancy Ziegler voted to support the motion. Board members M. Wing Goodale and Richard Gould were absent.

- ~~2. WEBBER TANKS, INC., Bucksport – Administrative Consent Agreement (BAQ)~~
Withdrawn by staff from Board consideration.

III. Regular Agenda

1. CHAPTER 555, STANDARDS FOR THE ADDITION OF TRANSPORTED WASTES TO WASTEWATER TREATMENT FACILITIES // REPEAL AND REPLACE (post to public hearing)

Staff: Dennis Merrill, Bureau of Land and Water Quality

The Board voted (8-0-0-2) on a motion to post to public hearing Chapter 555, Standards for the Addition of Transported Wastes to Wastewater Treatment Facilities, repeal and replace. These draft proposed rules are intended to promote management of wastewater treatment facilities by establishing standards for the addition of non-hazardous wastes from septic tanks, cesspools, holding tanks, etc that are transported to licensed wastewater treatment facilities for treatment and disposal. The Board anticipates a November 6, 2008 public hearing. The Board voted pursuant to 38 M.R.S. Section 341-D(1-B) and 1304(1).

Board members Elizabeth Ehrenfeld, Don Guimond, Ernest Hilton, Sue Lessard, P. Andrews Nixon, Matt Scott, Lissa Widoff and Nancy Ziegler voted to support the motion. Board members M. Wing Goodale and Richard Gould were absent.

2. CHAPTER 400, GENERAL PROVISIONS // AMENDMENT
CHAPTER 409, PROCESSING FACILITIES // AMENDMENT
CHAPTER 410, COMPOSTING FACILITIES // NEW (post to public hearing)

Staff: Paula Clark, Bureau of Remediation and Waste Management

The Board voted (8-0-0-2) on a motion to post to public hearing amendments to Chapters 400, General Provisions and 409, Processing Facilities and new Chapter 410, Composting Facilities. The motion included a change to the definition of Agricultural Composting Operation (detailed below) and the addition of a cross-reference to the Dept. of Agriculture's definition of "farm". These rules establish standards and licensing requirements for facilities that compost all types of solid waste. The Board anticipates a November 6, 2008 public hearing. The Board voted pursuant to 38 M.R.S. Section 341-D(1-B) and PL 2007 Chapter 139.

Board members Elizabeth Ehrenfeld, Don Guimond, Ernest Hilton, Sue Lessard, P. Andrews Nixon, Matt Scott, Lissa Widoff and Nancy Ziegler voted to support the motion. Board members M. Wing Goodale and Richard Gould were absent.

Chapter 400 Section 1(C-1).

C-1. Agricultural Composting Operation. "Agricultural Composting Operation" means composting that takes place on a farm and uses only animal manure, animal carcasses and offal, fish waste, leaves, wood chips, animal bedding and other vegetative waste, produce and other vegetable and food waste.

3. ROBERT PAGLIARULO, APPLICATION FOR NATURAL RESOURCES
PROTECTION ACT FOR ALTERATION OF A FRESHWATER WETLAND
ADJACENT TO SACO RIVER – DEP DENIAL L-23731-2G-A-N (appeal by R.
Pagliarulo)

Staff: William Bullard and Linda Kokemuller, Bureau of Land and Water Quality

The Board voted (8-0-0-2) on a motion to deny the appeal submitted by Robert Pagliarulo concerning DEP denial of his application for a Natural Resources Protection Act permit [Department Order L-23731-2G-A-N] to alter 5,556 sq. feet of forested floodplain wetland for the construction of a stone dust walking path and two boardwalks in Saco. The motion approved the draft proposed Board Order as modified below to correct the statutory citations on page 4 of the order, to insert the word "professional" directly in front of all references to "structural engineer" throughout the document, and to correct numbering on page 5 as noted below. The Board voted pursuant to 38 M.R.S. Section 341-D(4), Section 344 and 06-096 CMR Chapter 2, Section 24(B).

Board members Elizabeth Ehrenfeld, Don Guimond, Ernest Hilton, Sue Lessard, P. Andrews Nixon, Matt Scott, Lissa Widoff and Nancy Ziegler voted to support the motion. Board members M. Wing Goodale and Richard Gould were absent.

[1] Section B – second paragraph citation as follows:

38 M.R.S.A. §480-D(4) and (6);

[2] Section C – first paragraph change citation as follows:

38 M.R.S.A. §480-C(2)

[3] Correct numbering on signature page related to Board conclusions 1-4

[4] Correct reference in conclusion #3 to Special Condition 2, not Special Condition 4.

4. 2008 PROPOSED WATER QUALITY RECLASSIFICATION FOR CERTAIN MAINE WATERS // REQUEST TO EXTEND PUBLIC COMMENT DEADLINE FOR PROPOSED RECLASSIFICATION OF A PORTION OF THE CROOKED RIVER (Harrison/Otisfield)

Staff: Cindy Bertocci, BEP Executive Analyst

The Board voted (7-0-0-3) on a motion to grant the request made by Scott Hatch on behalf of Scribner's Mill Preservation Inc. to extend the written comment period to Wednesday, October 15, 2008 to allow for additional comment on the proposed water quality reclassification for a portion of the Crooked River. The Board voted pursuant to 38 M.R.S. Section 341-D(1-B) and the Maine Administrative Procedures Act.

Board members Elizabeth Ehrenfeld, Ernest Hilton, Sue Lessard, P. Andrews Nixon, Matt Scott, Lissa Widoff and Nancy Ziegler voted to support the motion. Board members M. Wing Goodale, Richard Gould and Don Guimond were absent.